

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

EDWARDYINE AYERS,

Plaintiff,

vs.

No. 17-2631-SHL-dkv

KTS SOLUTIONS,

Defendant.

REPORT AND RECOMMENDATION FOR DISMISSAL

The burden is upon the plaintiff to prosecute her case. By notice dated December 1, 2017, a scheduling conference in this case was set for Friday, December 15, 2017, at 10:00 a.m. in Courtroom No. 5. (ECF No. 13.) By order dated December 11, 2017, the scheduling conference was reset for Thursday, January 11, 2018. (ECF No. 16.) Both the notice and order were electronically mailed to the plaintiff, Edwardyine Ayers.¹ Ayers, who is proceeding *pro se*, did not appear at the scheduling conference on January 11, 2018. Darryl O'Neal appeared at the conference as counsel for the defendant, KTS Solutions.

By order dated January 17, 2018, Ayers was ordered to appear in court on Thursday, January 25, 2018, at 1:30 p.m., and

¹Ayers signed an agreement to receive documents through the court's Notice of Electronic Filing system and provided an email address of edwardyoneayers2@gmail.com. (ECF No. 3.) The notice and order were mailed to that email address.

show cause why her case should not be dismissed for failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. She was warned that failure to respond to the show cause order may result in dismissal of her lawsuit for failure to prosecute. The order was electronically mailed to Ayers at the email she provided to the court. Ayers failed to appear as ordered or otherwise respond. Darryl O'Neal, counsel for KTS Solutions, appeared and made an oral motion for dismissal for failure to prosecute.

It is recommended that KTS's motion to dismiss be granted and that this case be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute.

Respectfully submitted this 25th day of January, 2018.

s/Diane K. Vescovo
DIANE K. VESCOVO
CHIEF UNITED STATES MAGISTRATE JUDGE

NOTICE

Within fourteen (14) days after being served with a copy of this report and recommended disposition, a party may serve and file written objections to the proposed findings and recommendations. A party may respond to another party's objections within fourteen (14) days after being served with a copy. Fed. R. Civ. P. 72(b)(2). Failure to file objections within fourteen (14) days may constitute a waiver of objections, exceptions, and further appeal.

